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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,422	07/18/2003	Robby Zeaman	ZEAMAN-1	1750

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,422

Applicant(s)

ZEAMAN, ROBBY

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-18 is/are rejected.
- 7) ☒ Claim(s) 4,5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 1, the ground, ladder rails, and coefficients of friction therebetween are not apart of the claimed invention. Claim 17(numbered as claim 19) recites a similar ambiguity with respect to the ground. See "Response to Arguments" below with respect to the other claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurd #1,382,833. Hurd discloses a slide pad for a ladder leg A, comprised of metal base 10, receptacle structure 11-14 (vertical fingers), having sloped locking heads 15, 21, and bottom curved edges 17.

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Claims 1, 2, 3, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Boham et al #2,904,128. Boham discloses a slide pad for a ladder comprised of base 6, a receptacle 4 having vertical supports/arms/fingers 7, 8, straps 5, the interior leather/wool portion of the fingers serving to reduce friction when in contact with the ladder rails 2.

Claims 1, 2, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright #3,062,319. Wright discloses a slide pad for a ladder comprised of base 10, vertical supports 13, 14, which form a receptacle for receiving ladder rail 16, fingers 34, 35, and sloped locking heads 36, 37.

Claims 12, 16, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by McElfresh #5,417,302. McElfresh, as recited in column 4, lines 23-59, discloses a stepladder 100 having a slid pad 10, 12, 20, coupled to bottom ends of parallel rails 102.

#### ***Allowable Subject Matter***

Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 4 is the inclusion of a tubular elastic band that engages and surrounds a portion of the ladder rail. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

***Response to Arguments***

Applicant's arguments filed in the Amendment of 10-12-04 have been fully considered but they are not persuasive. Applicant's arguments with respect to the purpose of the slide pads of the instant invention versus prior art teaching of increased coefficient of frictions between surfaces is noted. The applicant, however, is attempting to claim non-static properties between non-homogeneous materials. In general, a coefficient of friction ( $\mu$ ) is the ratio of force that maintains contact between an object and a surface ( $F_n$ ), a normal force, and the frictional force that resists motion of the object ( $F_r$ ). It can be expressed as  $\mu = F_r/F_n$ . Further, there may be a static coefficient of friction and a kinetic coefficient of friction, between which the applicant has not distinguished in the claims. (There are other types, but these two are the most common, and static friction is typically greater than kinetic friction). Typically, a static or kinetic coefficient of friction value for a particular material may be established relative to a smooth, hard surface. The applicant can appreciate that the surfaces on which a ladder or slide pad device may rest or slide, are not always homogeneously smooth and hard. In fact, the applicant only claims "the ground" in the independent claims. Many types of uneven, non-homogeneous surfaces may constitute "the ground". As such, coefficients of friction between an object and a contact surface will vary on these uneven, non-homogeneous surfaces. For example, ground covered with ice may produce a different  $\mu$  value between a metal ladder versus ground not covered with ice. In addition, the applicant can also appreciate that the independent claims fail to distinguish between the types of materials from which the ladder or slide pad may be fabricated. For example, the coefficient of friction value for a wood, steel, or aluminum ladder with respect to a homogeneous surface will vary as the molecular properties of the materials vary. Finally, none of the independent claims

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make reference to "the purpose of the slide pad", i.e., so that the ladder can be more readily slid along the ground. The amendments to the claims have in fact made the claims more indefinite, while failing to address the purpose of the slide pad. It is suggested that the applicant rely upon the structural limitations of claim 4 as a way to distinguish the instant invention from the prior art, and not rely upon material properties that vary and are difficult to claim. As such, the rejections above are deemed proper, as the applicant has failed to adequately claim the non-static properties that have been argued.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

December 28, 2004